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July 11, 2016

Ms. Pamela Creedon Executive Officer Central Valley Regional Water Quality Control Board 11020 Sun Center Dr. Ste. 200 Rancho Cordova, CA 95670

Re: WSPA Comments on Tentative Waste Discharge Requirements, General Orders For Oil Field Discharges to Land

Dear Ms. Creedon:

The Western States Petroleum Association (WSPA) is a non-profit trade association representing companies that explore for, produce, refine, transport and market petroleum, petroleum products, natural gas and other energy supplies in California and four other western states. WSPA appreciates this opportunity to provide comments on the tentative General Orders for Oil Field Discharges to Land issued by the Central Valley Regional Water Quality Control Board (Regional Water Board) on June 9, 2016.

WSPA and WSPA member companies, as key stakeholders, have engaged with the Regional Water Board in the development of the General Orders and in the anticipated implementation process. While WSPA supports the issuance of the General Orders, we believe a number of revisions to the orders are warranted. Our detailed comments are provided in the attachments to this letter.

Thank you for your consideration of WSPA's comments. If you have any questions, please contact me at (661) 321-0884 or email jpitcher@wspa.org.

Sincerely,

Jenifer Pitcher

Senior Coordinator, SJV Production

cc: Dr. Karl Longley, Central Valley Regional Water Quality Control Board Ms. Felicia Marcus, Chair, CA State Water Resources Control Board

Mr. Clay Rodgers, Assistant Executive Officer, Central Valley Regional Water Quality Control Board

General Comments

These tentative documents incorporate suggestions and edits from the previous reviews done by this author and many others. WSPA appreciates the Regional Water Quality Control Board's consideration of our prior comments and the clarifications in the Tentative General Orders that address several of our recommendations. As can be seen below, there are few substantive comments that would require a rewrite of the regulatory language. There are, as noted, minor inconsistencies between the documents that should also be addressed.

It is our understanding that the intent of issuing General Orders is to cover regular day to day discharges of produced water to land. These Orders are not intended to cover unanticipated spills and therefore should not cause NOVs for spills which are already covered and regulated by DOGGR, OSPR, etc. We would like the CVRWQCB to clarify this point in their final language and clearly provide the intent of what is to be covered under the General Orders.

Universal Comments Common to All Three General Orders

After a thorough review of the Tentative General Orders and supporting documentation, only four issues seem to repeat themselves throughout many of the tentative documents. This includes: 1. the disposition of WST fluids; 2. the necessity to catalog and test for <u>all</u> chemicals used in the production process; 3. the term "produced wastewater;" 4. the definition of "secondary containment."

Issue 1: Each of the General Orders contains Prohibition # 4, which states:

"The discharge of fluids used in "well stimulation treatment," as defined by CCR, title 14, section 1761 (including hydraulic fracturing, acid fracturing, and acid matrix stimulation), to land is prohibited."

As written, Prohibition # 4 is not consistent with either SB 4 or the SB 4 implementing regulations promulgated by DOGGR. The requirement to manage fluids used in well stimulation treatment in containers (rather than in sumps or pits) applies only <u>during</u> the well stimulation treatment (WST) operation. This prohibition is based on Section 1786(a)(4) of the DOGGR regulations, which provides as follows:

- (a) Operators shall adhere to the following requirements for the storage and handling of well stimulation treatment fluid, additives, and produced water from a well that has had a well stimulation treatment . . .
- (4) Fluids shall be stored in containers and shall not be stored in sumps or pits.

Section 1786 is contained in Article 4 of the SB 4 regulations, which specifically defines the timeframe over which a well stimulation operation is deemed to occur and thus when the Article 4 regulations are applicable. As defined in the regulations, "a well stimulation treatment commences when well stimulation fluid is pumped into the well, and ends when the well stimulation treatment equipment is disconnected from the well." 14 CCR § 1780(c). The Article 4 regulations implement and are consistent with SB 4, which clearly distinguishes between flowback fluids (which are regulated under SB 4) and produced water that is otherwise subject

to the reporting requirements Public Resources Code section 3227. Produced water that is reportable under Section 3227 is not regulated under SB 4. See Pub. Res. Code, § 3160(b)(2)(E) and (d)(1)(C).

Thus, to achieve consistency with SB 4 and the DOGGR regulations, Prohibition # 4 should be revised to apply only to the mixture of well stimulation treatment fluids, additives and produced water that is generated from the well <u>during</u> a well stimulation treatment, i.e., before the WST equipment is disconnected and the well is placed into normal production mode.

Recommendation 1: For clarification, we recommend that Prohibition # 4 be revised in each of the tentative General Orders to read:

"The discharge of fluids recovered from a well during "well stimulation treatment," as defined by CCR, title 14, section 1761 (including hydraulic fracturing, acid fracturing, and acid matrix stimulation), to land is prohibited. All recovered fluids shall be managed in containers."

Issue 2: The following language related to WST operations is found in Prohibition #5 and elsewhere throughout the tentative General Orders documentation: "The discharge of produced wastewater from wells that have been stimulated as defined by CCR, title 14, section 1761 is prohibited."

Prohibition # 5 appears to flatly prohibit the discharge to land of *all produced water* from *all* wells that have **ever** undergone a well stimulation treatment, whether before or after July 1, 2015 (the effective date of the permanent SB 4 regulations). This prohibition would preclude the discharge of produced water into lined or unlined impoundments (including sumps and pits) and would presumably remain in effect for the life of the well, which in many cases covers decades. As written, the prohibition would bar routine discharges of produced water, as well as discharges that would occur on a contingent basis under temporary upset conditions. Imposition of this prohibition to produced water management practices that occur after well stimulation treatment has been terminated — and that lie outside the applicability of the WST regulations — would have the effect of shutting down all production from WST wells in the region since all fields must have some type of land discharge to handle water during process upsets. The economic and other consequences of this prohibition — which is not based on any demonstration of actual or threatened harm to water quality — would be severe.

Prohibition #5 is inconsistent with SB 4 and the DOGGR regulations, which apply only during well stimulation treatment operations. See above discussion relating to Prohibition #4 and 14 CCR § 1780(c), defining when well stimulation treatment begins and when it ends. There is nothing in either SB 4 or in the DOGGR regulations that prohibits the discharge to land of produced water from wells once the WST operation has terminated and the wells are operating in production mode. There is also nothing in the Porter-Cologne Water Quality Control Act that authorizes a Regional Water Board to impose an outright prohibition on discharge of produced water in the absence of any evidence of actual or threatened harm to water quality or impairment of beneficial uses.

WSPA acknowledges that WST fluids, including produced water that is generated during a well stimulation treatment, must be stored in containers at the well site, and may not be stored in sumps or pits. See 14 CCR § 1786(a)(4). This requirement is reflected in Prohibition # 4, as discussed above. However, there is a distinct difference between WST fluids that are used during the well stimulation treatment operation and that are recirculated out of the well before

the well is disconnected from the WST equipment, and the produced water from a well that has been returned to production mode. Produced water from a well that has undergone WST should not be regulated any differently than produced water from a well that has not undergone well stimulation. In both cases, the Central Valley Water Board has a duty under the Water Code to regulate produced water discharges as necessary to protect actual and reasonably foreseeable beneficial uses. The imposition of a wholesale, absolute and permanent ban on the discharge of produced water from all wells that have ever undergone well stimulation treatment is contrary to SB 4 and the DOGGR regulations and violates basic principles of the Water Code. The prohibition is not supported by any evidence of harm to the environment, would impose an extreme burden on operators, and is unlawful, arbitrary and capricious.

Presumably, Prohibition # 5 is intended to implement Section 1786(a)(4) of the DOGGR regulations. As such, it must be consistent with the plain meaning and clear intent of that regulation. Based on its placement in Article 4 of the SB 4 regulations (which apply only during well stimulation treatment), Section 1786(a)(4) cannot reasonably be interpreted to prohibit the discharge of produced water to land after termination of well stimulation treatment operations. Produced water from producing wells is subject to reporting under Section 3227 of the Public Resources Code and is not regulated under SB 4. The administrative history of Section 1786 (a)(4) clearly supports the conclusion that the prohibition on discharges to sumps and pits was intended to apply only during well stimulation treatment. A compilation of this administrative history is provided in Attachment and hereby incorporated into these comments. The Central Valley Water Board has no authority to interpret the DOGGR regulation differently or more broadly than is supported by its plain and unambiguous meaning, i.e. that flowback fluids (including the volume of produced water that flows to the surface along with the WST fluids) that are recovered from a well during the course of a well stimulation treatment (i.e., prior to disconnection of the WST equipment) must be stored in containers and may not be discharged to land. This requirement of the DOGGR regulations is already embodied in Prohibition #4, as discussed above. Accordingly, Prohibition #5 is unnecessary and should be deleted from the General Orders.

The Memorandum of Agreement (MOA) between the State Water Resources Control Board and DOGGR relating to implementation of SB 4 also supports the deletion of Prohibition # 5 from the General Orders. Section III.B. of the MOA expressly acknowledges and describes the Regional Water Board's role in issuance of Waste Discharge Requirements (WDRs) for "WST-related" discharges. We believe the reference to "WST-related discharges" is a direct reference to produced water from wells that are operating in production mode, after termination of well stimulation treatment operations. Management of WST fluids (including produced water) during WST operations is not subject to WDRs since those fluids must be stored in containers (discharges to land are not authorized during this period). Accordingly, the reference to "WSTrelated discharges" can only apply to discharges of produced water from the wells after termination of well stimulation treatment operations. If the produced water is discharged into sumps, pits, or ponds, the Regional Board is required to establish WDRs (or General Orders) for these discharges, setting forth the conditions necessary to protect water quality, pursuant to Water Code section 13264. If these discharges were intended to be prohibited as indicated by Prohibition # 5, there would have been no reason for this issue (WDRs for WST-related discharges) to have been addressed in the MOA.

Operators in the Central Valley have made major investments in integrated water handling facilities as necessary to comply with laws, regulations and permits that have been in effect for years. For the most part, these facilities have eliminated the need for large evaporation and percolation ponds to manage produced water, and represent a significant step forward in water quality protection. However, even the most sophisticated water handling facilities must be able to divert water into sumps or pits, on a temporary basis, during upset conditions, to avoid the possibility of having catastrophic equipment failures. If Prohibition # 5 is retained in the General Orders, these systems will no longer be allowed to divert water during upsets, and operators will be forced to shut in production, or to go to extreme and costly lengths to contain the water in some other way. We do not believe the Water Board intended either of these infeasible outcomes.

Recommendation 2: We recommend that Prohibition # 5 be deleted from each of the tentative General Orders.

Issue 3: The Monitoring and Reporting Programs require that the *Discharger submit* information on <u>all</u> chemicals that have been used in the drilling or production of a well that discharges to a pond.

Recommendation 3: WSPA submits that this requirement is overreaching and not necessary to ensure that groundwater is not adversely affected as a result of discharges into a surface pond. The analyses conducted for the Section 13267 requirements should be used to determine the need, if any, for groundwater monitoring. Any monitoring should be tailored to compounds in the effluent that would be expected to significantly affect the quality of underlying usable groundwater (in areas where it exists) and should only apply approved EPA test methods. Unnecessary monitoring and testing adds significant cost and reporting time with little to no environmental benefit and would exceed the Regional Water Board's authority.

Issue 4: Regarding the term "produced wastewater" vs. "produced water."

Recommendation 4: The Regional Water Board has stated that the term "wastewater" is used in the General Orders to refer to produced water in order to bring produced water discharges within the Regional Water Board's authority to issue Waste Discharge Requirements (WDRs). However, <u>produced</u> water is not necessarily a waste, as it is often reused in the oil field itself, or in some cases recycled for agricultural purposes. Produced water that is not a waste should be expressly exempted from the General Orders.

Issue 5: Regional Water Board staff has defined "secondary containment" as only applicable to "catastrophic" failures of the containment vessel.

Recommendation 5: This appears contrary to the intention of DOGGR regulations concerning "secondary containment" and "catastrophic" failures. Typically, secondary containment requirements are not limited to circumstances where "catastrophic" failures occur. To the contrary, secondary containment requirements are intended to protect against a broad range of unintentional releases, from small leaks and drips, to upset conditions resulting in breaches of primary containment systems, to catastrophic failures. WSPA recommends the replacement of the definition currently in the General Orders with the following: "Secondary containment" means an engineered impoundment, such as a catch basin, which can include natural topographic features, that is designed to capture fluid released from a production facility (e.g. tanks and vessels), and is maintained in accordance with 14 CCR 1773.1."

Specific Comments on General Order One

WASTE DISCHARGE REQUIREMENTS GENERAL ORDER FOR OIL FIELD DISCHARGES TO LAND GENERAL ORDER NUMBER ONE

Issue 6: There is no discussion in any of the documents as to whether the Basin Plan limits are instantaneous limits or annual average limits.

Recommendation 6: WSPA suggests that annual monitoring for electrical conductivity, chlorides and boron would be protective of groundwater quality while also relieving staff of unnecessary paperwork associated with quarterly monitoring.

Issue 7: "45. CCR, title 14, section 1786(a)(4) states that operators shall not store well stimulation treatment fluids, including produced waters from a well that has undergone well stimulation treatment (i.e. hydraulic fracturing, acid fracturing, and acid matrix stimulation), in sumps or pits."

Recommendation 7: (See Universal Comments Issue and Recommendation 1).

Issue 8: The State secondary drinking water MCLs (Finding 22) and State primary drinking water MCLs (Finding 23) are not appropriate limits for these General Orders.

Recommendation 8: Finding 22 and 23 should be deleted from the WDR or the last sentence of Finding 28 should be revised to the following "This General Order does not authorize discharges exceeding the limits in Findings 24 through 27."

Issue 9: Storm water discharges that have not contacted produced water and do not contribute to a violation of water quality standards should not be regulated by these General Orders.

Recommendation 9: Finding 51, Delete the last sentence of Finding 51 "Therefore, Dischargers are not required to obtain coverage under Order 2014-0057-DWQ as long as storm water is contained in the Facility."

Issue 10: B.14 typo.

Recommendation 10: correct typo in B.14 to reference B.12 and B.13.

Issue 11: B.19 typo.

Recommendation 11: correct typo in B.19 "... from outside **an** oil and Gas production facility ..."

Issue 12: C.2 Discharge limitations within the White Wolf Subarea include limits for salinity constituents for areas of Class II or Poorer Irrigation Water, however these limitations have not been included.

Recommendation 12: Class II or Poorer Irrigation Water limitations should be added to C.3 as referred in Finding 27.

Issue 13: Provision E.6 should only require reporting of materials used on site for beneficial use, not the reporting of solid wastes disposed at a permitted off-site facility.

Recommendation 13: Solid wastes that are not discharged to land and that are regulated by other agencies should not be required to be reported under these General Orders.

Issue 14: Provision E.12, Changes to private leases, contracts, and agreements between parties may be confidential and will not be known until after they are completed.

Recommendation 14: Written notification of modifications to agreements should be provided 30-90 days after the agreement is completed.

MONITORING AND REPORTING PROGRAM R5-2016-XXXX FOR WASTE DISCHARGE REQUIREMENTS GENERAL ORDER OIL FIELD DISCHARGES TO LAND GENERAL ORDER NUMBER ONE

Issue 15: The MRP requires that the Discharger submit information on <u>all</u> chemicals that have been used in the drilling or production of a well that discharges to a pond.

Recommendation 15: (See Universal Comments Issue and Recommendation 3).

Issue 16: Solid Waste Monitoring reports should only require reporting of materials used on site for beneficial use, not the reporting of solid wastes disposed at a permitted off-site facility.

Recommendation 16: Solid wastes that are not discharged to land and that are regulated by other agencies should not be required to be reported under these General Orders.

Issue 17: The requirement for a groundwater well survey is inappropriate for low-threat discharges which will comply with water quality requirements as outlined in the 2004 Basin Plan.

Recommendation 17: Groundwater well surveys should not be required or, at a maximum, should be limited to an area within **one-quarter** mile of a pond.

INFORMATION SHEET FOR OIL FIELD DISCHARGES TO LAND GENERAL ORDER NUMBER ONE

Issue 18: Under this proposed Order, the effluent is required to meet Basin Plan standards prior to discharge. However, the information sheet describes that extensive groundwater monitoring is needed to assure that no change to the beneficial use of underlying groundwater occurs. Since data collected by the Regional Water Board in 2015 under Section 13267 support the fact that the discharge of produced water under General Order One does not exceed Basin Plan limits, extensive groundwater monitoring is unnecessary.

Recommendation 18: WSPA suggests that extensive groundwater monitoring is not necessary if the discharger has shown that the effluent does not contain chemical constituents with concentrations that would be expected to cause degradation of groundwater. The need for costly groundwater monitoring should be dependent on the quality of effluent being discharged and the potential for groundwater quality degradation. Groundwater monitoring should not be required for produced water used for dust control because of the high evapotranspiration rates (relative to application rates) and low potential for groundwater degradation. Similarly,

groundwater monitoring should not be required for road mix applications because of the low potential for leaching and groundwater degradation.

STANDARD PROVISIONS AND REPORTING REQUIREMENTS FOR WASTE DISCHARGE REQUIREMENTS 1 March 1991

WSPA has no comments on the Standard Provisions and Reporting Requirements.

ATTACHMENT A: DEFINITION OF TERMS FOR WASTE DISCHARGE REQUIREMENTS

GENERAL ORDER FOR OIL FIELD DISCHARGES TO LAND

GENERAL ORDER NUMBER ONE

Issue 19: Regional Board staff views <u>secondary containment</u> as only being applicable to "catastrophic" failures of the containment vessel.

Recommendation 19: (See Universal Comments Issue and Recommendation 5).

Issue 20: The Regional Water Board definition of Solid waste is too specific as it relates to these WDRs. Oil sand and sludge is typically removed from the bottom of ponds, and oil product may be skimmed from pond surfaces.

Recommendation 20: Delete "the surface of" from this specific definition of Solid Wastes.

ATTACHMENT B: INFORMATION NEEDS SHEET FOR ORDER R5-2016-00XX WASTE DISCHARGE REQUIREMENTS GENERAL ORDER FOR OIL FIELD DISCHARGES TO LAND GENERAL ORDER NUMBER ONE

Issue 21: This document states (Section (B)(2)(a)): "A detailed accounting of all the chemicals and additives used that could enter the wastewater, the reservoir, and/or produced wastewater stream (e.g., acids, bases, salts, surfactants, emulsion breakers, etc.), and a description of how and where in the production or wastewater stream they are deployed. Calculate the volumes of each individual chemical and additive used on a quarterly basis and describe any seasonal variability in chemical usage." Again, this requires that the Discharger submit information on <u>all</u> chemicals that have been used in the drilling or production of a well that discharges to a pond. This exercise is time consuming, costly and will have no benefit to the state.

Recommendation 21: (See Universal Comments Issue and Recommendation 3).

Specific Comments on General Order Two

WASTE DISCHARGE REQUIREMENTS GENERAL ORDER FOR OIL FIELD DISCHARGES TO LAND GENERAL ORDER NUMBER TWO

Issue 22: The discharge of produced wastewater from wells that have been stimulated as defined by CCR, title 14, section 1761 is prohibited.

Recommendation 22: (See Universal Comments Issue and Recommendation 2).

Issue 23: Storm water discharges that have not contacted produced water and do not contribute to a violation of water quality standards should not be regulated by these General Orders.

Recommendation 23: Finding 49, Delete the last sentence of Finding 49 "Therefore, Dischargers are not required to obtain coverage under Order 2014-0057-DWQ as long as storm water is contained in the Facility."

Issue 24: B.17 typo.

Recommendation 24: correct typo in B.17 "... from outside **an** oil and Gas production facility ..."

Issue 25: Provision E.6 should only require reporting of materials used on site for beneficial use, not the reporting of solid wastes disposed at a permitted off-site facility.

Recommendation 25: Solid wastes that are not discharged to land and that are regulated by other agencies should not be required to be reported under these General Orders.

Issue 26: Provision E.12, Changes to private leases, contracts, and agreements between parties may be confidential and will not be known until after they are completed.

Recommendation 26: Written notification of modifications to agreement should be made 30-90 days after the agreement is completed.

MONITORING AND REPORTING PROGRAM R5-2016-XXXX FOR WASTE DISCHARGE REQUIREMENTS GENERAL ORDER OIL FIELD DISCHARGES TO LAND GENERAL ORDER TWO

Issue 27: The MRP requires that the Discharger submit information on <u>all</u> chemicals that are being used in the oil fields that discharge to a pond.

Recommendation 27: (See Universal Comments Issue and Recommendation 3).

Issue 28: Solid Waste Monitoring reports should only require reporting of materials used on site for beneficial use, not the reporting of solids wastes disposed at a permitted off-site facility.

Recommendation 28: Solid wastes that are not discharged to land and that are regulated by other agencies should not be required to be reported under these General Orders.

Issue 29: The requirement for a groundwater well survey is inappropriate for low-threat discharges which will comply with to water quality requirements as outlined in the 2004 Basin Plan.

Recommendation 29: Groundwater well surveys should not be required or, at a maximum, should be limited to an area within **one-quarter** mile of a pond.

INFORMATION SHEET WASTE DISCHARGE REQUIREMENTS FOR OIL FIELD DISCHARGES TO LAND GENERAL ORDER NUMBER TWO

Issue 30: This document states (Page 15 Prohibitions): "Storm water that comes into contact with residual oil, produced wastewater, or oil field wastes may contain pollutants. This General Order prohibits the discharge of any wastes to surface waters or surface water drainages. It also prohibits discharges of storm water to surface waters that has come into contact with oil field wastes."

Recommendation 30: Discharges of storm water to surface waters is already subject to separate State Water Board regulations and this general order should not further regulate storm water. WSPA recommends that to be consistent with the language in the Orders, the sentence be changed to read [the General Order also prohibits discharge of storm water that has come into contact with produced wastewater or residual oil or oil field wastes to surface waters.]

Issue 31: "The discharge of any fluids and produced water from wells that have undergone a "well stimulation treatment", as defined by CCR, title 14, section 1761 (including hydraulic fracturing, acid fracturing, and acid matrix stimulation), is prohibited."

Recommendation 31: (See Universal Comments Issue and Recommendation 2).

ATTACHMENT A: DEFINITION OF TERMS FOR WASTE DISCHARGE REQUIREMENTS GENERAL ORDER FOR OIL FIELD DISCHARGES TO LAND GENERAL ORDER NUMBER TWO

Issue 32: Definition #13, Regional Water Board staff has defined secondary containment as only being applicable to "catastrophic" failures of the containment vessel.

Recommendation 32: See Universal Comments Issue and Recommendation 5. Common industry definition, as used by DOGGR, CARB, SJVAPCD, and other state and regional regulatory entities, of secondary containment is not always catastrophic. WSPA recommends the word "catastrophic" be stricken from the text and that DOGGR's definition of secondary containment be solely used in the document, or, delete the word "only" and add "during emergency conditions".

ATTACHMENT B: INFORMATION NEEDS SHEET FOR ORDER R5-2016-00XX WASTE DISCHARGE REQUIREMENTS GENERAL ORDER FOR OIL FIELD DISCHARGES TO LAND GENERAL ORDER NUMBER TWO

Issue 33: "A detailed accounting of all the chemicals and additives used that could enter the wastewater, the reservoir, and/or produced wastewater stream (e.g., acids, bases, salts, surfactants, emulsion breakers, etc.), and a description of how and where in the production or wastewater stream they are deployed. Calculate the volumes of each individual chemical and additive used on a quarterly basis and describe any seasonal variability in chemical usage." Again, this requires that the Discharger submit information on all chemicals that have been used in the drilling or production of a well that discharges to a pond. This exercise is time consuming, costly and will have no benefit to the state.

Recommendation 33: (See Universal Comments Issue and Recommendation 3).

Specific Comments on General Order Three

ORDER R5-2016-xxxx WASTE DISCHARGE REQUIREMENTS GENERAL ORDER FOR OIL FIELD DISCHARGES TO LAND GENERAL ORDER THREE

Issue 34: "If the Discharger is unable to obtain the amendments to the Basin Plan necessary to continue discharge, by the end of the compliance schedule, the discharge must cease."

Recommendation 34: This requirement is onerous and unduly burdens the dischargers since there is no guarantee that the Regional Board will adopt the proposed amendments in a timely manner. Basin Plan amendments are <u>very</u> infrequently approved by the Water Board. Add in language that states that if the discharger has shown to the satisfaction of the Water Board that the beneficial use of the underlying groundwater will <u>not</u> be impacted by the discharge, an expedited Basin Plan amendment is appropriate.

Issue 35: "Facilities defined as "new" or "expanding" pursuant to this General Order must submit proof of compliance with the provisions of the CEQA in the form of a certified Environmental Impact Report, Mitigated Negative Declaration, or Negative Declaration, with an NOI, to the Central Valley Water Board to qualify for coverage under this General Order."

Recommendation 35: WSPA recommends this phrase to read: "Facilities defined as "new" or "expanding" pursuant to this General Order must submit proof of compliance with the provisions of CEQA in the form of a certified Environmental Impact Report, Mitigated Negative Declaration, or Negative Declaration along with an NOI, to the Central Valley Water Board to qualify for coverage under this General Order." A new or expanded facilities may nevertheless qualify for a categorical exemption from CEQA (e.g., as a minor alteration to land).

Issue 36: "The discharge of produced wastewater from wells that have been stimulated as defined by CCR, title 14, section 1761 is prohibited."

Recommendation 36: (See Universal Comments Issue and Recommendation 2).

Issue 37: The documents reference activities on the "lease" and on "facilities."

Recommendation 37: For consistency, only the term facility should be used throughout the General Orders. WSPA suggests the term should be added to the Definitions document using the DOGGR's AB1960 definition of "Production Facility". The definition is as follows:

(k) "Production facility" means any equipment attendant to oil and gas production or injection operations including, but not limited to, tanks, flowlines, headers, gathering lines, wellheads, heater treaters, pumps, valves, compressors, injection equipment, production safety systems, separators, manifolds, and pipelines that are not under the jurisdiction of the State Fire Marshal pursuant to Section 51010 of the Government Code, excluding fire suppressant equipment.

Issue 38: Storm water discharges that have not contacted produced water and do not contribute to a violation of water quality standards should not be regulated by these General Orders.

Recommendation 38: Finding 48, Delete the last sentence of Finding 48 "Therefore, Dischargers are not required to obtain coverage under Order 2014-0057-DWQ as long as storm water is contained in the Facility."

Issue 39: B.18 typo.

Recommendation 39: Correct typo in B.18 "... from outside **an** oil and Gas production facility ..."

Issue 40: Provision E.7 should only require reporting of materials used on site for beneficial use, not the reporting of solid wastes disposed at a permitted off-site facility.

Recommendation 40: Solid wastes that are not discharged to land and that are regulated by other agencies should not be required to be reported under these General Orders.

Issue 41: Provision E.13, Changes to private leases, contracts, and agreements between parties may be confidential and will not be known until after they are completed.

Recommendation 41: Written notification of modification to agreements should be made 30-90 days after the agreement is completed.

MONITORING AND REPORTING PROGRAM R5-2016-XXXX FOR WASTE DISCHARGE REQUIREMENTS GENERAL ORDER OIL FIELD DISCHARGES TO LAND GENERAL ORDER THREE

Issue 42: The MRP requires that the Discharger submit information on <u>all</u> chemicals that are being used in the oil fields that discharge to a pond.

Recommendation 42: (See Universal Comments Issue and Recommendation 3).

Issue 43: Solid Waste Monitoring reports should only require reporting of materials used on site for beneficial use, not the reporting of solid wastes disposed at a permitted off-site facility.

Recommendation 43: Solid wastes that are not discharged to land and that are regulated by other agencies should not be required to be reported under these General Orders.

Issue 44: The requirement for a groundwater well survey is inappropriate for low-threat discharges which will comply with water quality requirements as outlined in the 2004 Basin Plan.

Recommendation 44: Groundwater well surveys should not be required or, at a maximum, should be limited to an area within **one-quarter** mile of a pond.

INFORMATION SHEET ORDER R5-2016-00XX WASTE DISCHARGE REQUIREMENTS GENERAL ORDER NO. 3
FOR OIL FIELD DISCHARGES OF WASTES TO LAND

Issue 45: The WDR for GO3 reads: "The General Order compliance time schedule requires the Discharger to cease discharge if it is unable to obtain the amendments to the Basin Plan by the end of the compliance schedule."

Recommendation 45: This requirement is onerous and unduly burdens the dischargers since there is no guarantee that the Regional Board will adopt proposed amendments in a timely manner. Basin Plan amendments are <u>very</u> infrequently approved by the Water Board. Add in language that states that if the discharger has shown to the satisfaction of the Water Board that either no groundwater is present or the beneficial use of the underlying groundwater will <u>not</u> be impacted by the discharge, an expedited Basin Plan amendment would be appropriate. In addition, the executive officer should be given authorization to extend the basin plan amendment process beyond two years so long as appropriate actions are being taken by the discharger.

Issue 46: "The discharge of produced wastewater from wells that have been stimulated as defined by CCR, title 14, section 1761 is prohibited."

Recommendation 46: (See Universal Comments Issue and Recommendation 2).

ATTACHMENT A: DEFINITION OF TERMS FOR WASTE DISCHARGE REQUIREMENTS GENERAL ORDER FOR OIL FIELD DISCHARGES TO LAND GENERAL ORDER NUMBER THREE

Issue 47: Definition #12, Regional Water Board staff views secondary containment as only being applicable to "catastrophic" failures of the containment vessel.

Recommendation 47: (See Universal Comments Issue and Recommendation 5).

Issue 48: Regional Water Board staff removed the definition of "High Quality Water" from General Order #3 and it should be retained to define the term as used within the General Order.

Recommendation 48: The definition of "High Quality Water" should also be included with General Order #3.

ATTACHMENT B: INFORMATION NEEDS SHEET FOR ORDER R5-2016-00XX WASTE DISCHARGE REQUIREMENTS GENERAL ORDER FOR OIL FIELD DISCHARGES TO LAND GENERAL ORDER NUMBER THREE

Issue 49: "A detailed accounting of all the chemicals and additives used that could enter the wastewater, the reservoir, and/or produced wastewater stream (e.g., acids, bases, salts, surfactants, emulsion breakers, etc.), and a description of how and where in the production or wastewater stream they are deployed. Calculate the volumes of each individual chemical and additive used on a quarterly basis and describe any seasonal variability in chemical usage." Again, this requires that the Discharger submit information on all chemicals that have been used in the drilling or production of a well that discharges to a pond. This exercise is time consuming, costly and will have no benefit to the state.

Recommendation 49: (See Universal Comments Issue and Recommendation 3).